



# PUBLIC NOTICE

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## SATELLITE POLICY BRANCH INFORMATION

### BOEING APPLICATION ACCEPTED FOR FILING IN PART IBFS FILE NO. SAT-LOA-20160622-00058

### CUT-OFF ESTABLISHED FOR ADDITIONAL NGSO-LIKE SATELLITE APPLICATIONS OR PETITIONS FOR OPERATIONS IN THE 37.5-40.0 GHz, 40.0-42.0 GHz, 47.2-50.2 GHz AND 50.4-51.4 GHz BANDS

The Boeing Company (Boeing) has filed an application with the Commission to launch and operate a non-geostationary-satellite orbit (NGSO) satellite system providing fixed-satellite service (FSS). In this Public Notice, we accept the Boeing application for filing in part, defer in part, and establish a pleading cycle for consideration of the application.<sup>1</sup> We also initiate a processing round for additional applications and petitions for operation by NGSO-like satellite systems in the 37.5-40.0 GHz, 40.0-42.0 GHz, 47.2-50.2 GHz and 50.4-51.4 GHz frequency bands.<sup>2</sup> We defer consideration at this time of Boeing's request to operate in the 42.0-42.5 GHz<sup>3</sup> and 51.4-52.4 GHz<sup>4</sup> frequency bands and do not include these bands in the processing round.

<sup>1</sup> *The Boeing Company, Application for Authority to Launch and Operate a Non-Geostationary Low Earth Orbit Satellite System in the Fixed Satellite Service*. IBFS File No. SAT-LOA-20160622-00058 (filed June 22, 2016) (Boeing Application). To access the Boeing Application, visit <http://licensing.fcc.gov/myibfs>.

<sup>2</sup> See 47 CFR § 25.157(a).

<sup>3</sup> In the 42.0-42.5 GHz frequency band there is no domestic allocation for satellite services. The Commission recently declined to adopt an FSS allocation in this band. *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, FCC 16-89, para. 368 (rel. July 14, 2016). This decision was based on the fact that there would be value in having exclusive terrestrial use of this band. A decision with respect to authorization of fixed and mobile operations in 42.0-42.5 GHz frequency band under the Part 30 Upper Microwave Flexible Use Service rules is currently pending. *Id.* at para. 403. Accordingly, we find it premature to consider the portion of Boeing's application that seeks to operate in the 42.0-42.5 GHz frequency band and decide not to include this band in this processing round.

<sup>4</sup> Section 25.112(a)(3) of the Commission's rules states that an application will be unacceptable for filing and will be returned to the applicant if the application requests authority to operate a space station in a frequency band that is not allocated internationally for such operations under the Radio Regulations of the International Telecommunication Union. 47 CFR § 25.112(a)(3). In a September 2016 supplemental letter, Boeing requested a waiver of Section 25.112(a)(3) to permit acceptance of its application to operate in the 51.4-52.4 GHz band. Letter from Bruce A. Olcott, Jones Day, Counsel to the Boeing Company, to Jose P. Albuquerque, Chief, Satellite Division, FCC, at 11-12 (filed Sept. 16, 2016). Separately, Boeing filed a petition for rulemaking to, among other things, establish an allocation for satellite services in the 51.4-52.4 GHz band, which was placed on public notice and is pending. *Consumer and Governmental Affairs Bureau Reference Information Center Petition for Rulemaking Filed*, RM No. 11773, Public Notice, Report No. 3051, Daily Digest (Sept. 16, 2016). We find it premature to  
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*Boeing Application.* Boeing proposes to operate a system consisting of 2,956 satellites in low-Earth orbit to provide broadband internet access in the United States and globally.<sup>5</sup> Boeing plans to deploy the first portion of the system, 1,396 satellites operating at an altitude of 1,200 km, within six years following license grant, and to subsequently increase the constellation to the total of 2,956 satellites. User terminals and gateway earth stations would share the uplink and downlink frequency band within the coverage footprint of each satellite.<sup>6</sup> In its application, Boeing requests waivers of certain Commission rules, namely: Sections 2.106, 25.202(a)(1), 25.114(c)(8), 25.208(r), 25.143(b)(2)(ii), 25.156(d)(4), 25.156(d)(5), 25.157(e), 25.164(b), and 25.210(i)(1).<sup>7</sup>

*Accepted for filing.* The Boeing Application is accepted for filing in part. We defer action on Boeing's request for operations in the 42.0-42.5 GHz and 51.4-52.4 GHz bands. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies.

*Boeing pleading cycle.* Interested parties may file comments or petitions to deny the Boeing Application no later than **December 1, 2016**. Responses to comments and oppositions to petitions must be filed no later than **December 12, 2016**. Replies to oppositions must be filed no later than **December 19, 2016**.

- Electronic Filers: Comments may be filed using the Commission's International Bureau Filing System at <http://licensing.fcc.gov/myibfs/pleading.do>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington, DC 20554.

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consider the portion of Boeing's application that seeks to operate in the 51.4-52.4 GHz frequency band before a ruling is made on Boeing's waiver request, taking into account any Commission action on the related Petition for Rulemaking.

<sup>5</sup> See Boeing Application, Narrative at 23.

<sup>6</sup> *Id.* at 22.

<sup>7</sup> We note that the requirements contained in Section 25.210(i)(1) of the Commission's rules, 47 CFR § 25.210(i)(1), at the time Boeing filed its application were subsequently eliminated as part of a recent Commission-level order streamlining Part 25 rules governing satellite communications. *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, IB Docket No. 12-267, Second Report and Order, 30 FCC Rcd 14713, 14817, para. 333 (2015), published at 81 FR 55316 (Aug. 18, 2016).

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*Ex parte status.* Boeing's application is subject to the "permit-but-disclose" provisions of the Commission's rules governing *ex parte* communications.<sup>8</sup> To provide for uniformity of treatment, we will also treat any other applications considered in this processing round under the "permit-but-disclose" provisions of the *ex parte* rules.

*Additional applications.* We invite additional applications and petitions for declaratory ruling for NGSO-like satellite operation in the 37.5-40.0 GHz, 40.0-42.0 GHz, 47.2-50.2 GHz and 50.4-51.4 GHz frequency bands. Applications and petitions filed by **March 1, 2017**, will be considered together with the Boeing Application. Requests filed after this date may not be entitled to shared use of this spectrum with respect to any grant of applications or petitions filed prior to the cut-off date. Applicants and petitioners that file by the cut-off date will be afforded an opportunity to amend their requests, if necessary, to conform to any requirements or policies that may be subsequently adopted concerning NGSO-like satellite operation in these bands. Applications must be filed electronically through IBFS at <http://licensing.fcc.gov/myibfs>.

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<sup>8</sup> Policy Branch Information Actions Taken, Public Notice, Report No. SAT-01185 (IB Sept. 9, 2016) (informative public notice designating the proceeding "permit-but-disclose"); 47 CFR § 1.1206.